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2 DEPOSITION

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5 WITNESS: SHOLEM KLEIN

6 DATE: Friday, May 10, 2024

7 START TIME: 1:06 p.m., ET

8 END TIME: 3:01 p.m., ET

9 REMOTE LOCATION: Remote Legal platform

10 PROCEEDINGS OFFICER: Vanessa Van Wagner,

11 CER/CDR-1602

12 JOB NO.: 25551

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1 A P P E A R A N C E S

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1 A P P E A R A N C E S (CONT'D)

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10

11

12 ALSO PRESENT:

13 Regina Yu, Law Clerk, Cohen & Green P.L.L.C.

14 Amanda Ricker, Notary Public

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1 but you could probably see his mouth moving after your  
2 question. I don't know if it's a lag on your end or our  
3 end. I'm not sure.

4 MR. OLVER: It's certainly not on my end.  
5 But when I ask a question it's -- I'm seeing a three to  
6 five second pause before the answer.

7 BY MR. OLIVER:

8 Q Did you review any videos to prepare for your  
9 deposition?

10 A No.

11 Q Did you review any photos to prepare for your  
12 deposition?

13 A No.

14 Q Did you review any documents to prepare for  
15 your deposition?

16 A No.

17 Q Aside from your attorneys, have you discussed  
18 the deposition with anyone?

19 A No.

20 Q Did you review the transcript of the prior  
21 deposition testimony?

22 A No.

23 Q Have you searched for any documents or  
24 information since that first deposition regarding this  
25 case?

1 A No.

2 MR. OLIVER: Okay. So we are now going  
3 to mark as Exhibit 23 body-worn camera footage from  
4 Officer Emeh, E-M-E-H.

5 (Exhibit 23 marked for identification.)

6 MR. OLIVER: And we are going to play  
7 from that video, a clip from zero seconds to nine  
8 seconds. Then we're going to pause and I'll have some  
9 questions.

10 (Video playback.)

11 MR. OLIVER: Are you ready, Regina? I'm  
12 sorry. I can't hear you, Regina. Okay. I can't hear  
13 you. If you already played it, I just need to hear that  
14 it's starting and stopping. Can others hear, Ms. Yu?

15 THE PROCEEDINGS OFFICER: I can't hear  
16 her. And also it looks like we will have to --

17 MR. ROMAN: It looks like you're having  
18 technical issues.

19 THE PROCEEDINGS OFFICER: -- either each  
20 play it individually.

21 MR. OLIVER: We are not going to do that,  
22 Ms. Wagner. We're not going to each play it  
23 individually. We tested this before the deposition.  
24 Ms. Yu is going to be basically playing the videos for  
25 the witness as we go. So that's not -- that's not going

1 what you're doing and where your phone is, if you can  
2 see. 2:30 to 2:33.

3 (Video playback.)

4 BY MR. OLIVER:

5 Q Okay. What were you doing with your phone at  
6 the time depicted in the clip?

7 A It looks to me holding my phone.

8 Q Were you talking to someone?

9 A Maybe. Not sure.

10 Q Were you texting with someone?

11 A I don't know.

12 Q Do you know who you would have been talking to  
13 or texting with if you were?

14 A No.

15 Q Okay. And you see behind you in the clip  
16 where we've -- sorry. In the spot where we've paused  
17 here at 2:33, you see that there's a NYPD vehicle there  
18 that's just pulled up?

19 A Yes, sir.

20 MR. OLIVER: Okay. Now, we're going to  
21 watch 2:33 to 2:55. 2:33 to 2:55, Ms. Yu, is a little  
22 bit different than what I had anticipated, but we're  
23 going to do 2:33 to 2:55.

24 (Video playback.)

25 BY MR. OLIVER:

1 anything else aside from what you can be heard telling  
2 the police in the clip?

3 A The scenario of the scene.

4 Q What about the scenario of the scene did that  
5 clip refresh your recollection about?

6 A I was in a legal parking spot where Mr. White  
7 was standing, where his bike was. Everything, the whole  
8 corner.

9 Q Okay. And is there anything else that viewing  
10 that clip refreshed your recollection about?

11 A Not really. The weather.

12 Q Okay. Anything else aside from the weather or  
13 anything else that you've testified about that the clip  
14 refreshed your recollection on?

15 A No. Not sure.

16 MR. OLIVER: Okay. Now, we're going to  
17 play 3:30 to 3:45, and I'm going to ask you to pay  
18 attention to your phone when we're looking at this clip.

19 (Video playback.)

20 BY MR. OLIVER:

21 Q Could you see in the clip that we just watched  
22 what you were doing with your phone?

23 A Not sure.

24 Q Do you need to see it again? Would that help?

25 A No.

1 Q Okay. Could you tell if you were talking on  
2 the phone in the clip that we watched?

3 A Not sure.

4 MR. OLIVER: Okay. We're going to watch  
5 7:40 to 8:00. We're going to -- I'm going to ask you to  
6 focus again on you in the background and on your phone.

7 (Video playback.)

8 BY MR. OLIVER:

9 Q In the clip we just watched, could you see  
10 what you were doing with your phone?

11 A Holding it, putting it in my pocket.

12 Q Do you see yourself putting the phone up to  
13 your mouth?

14 A Yes.

15 Q Did you use on November 11, 2022 some kind of,  
16 like, voice-to-text feature on your phone?

17 A Not sure.

18 A Okay. Do you typically use voice-to-text on  
19 your phone?

20 A Sometimes.

21 Q Do you use Siri?

22 A Barely.

23 Q Okay. Do you know if you were talking to  
24 someone at that time depicted in that clip that we just  
25 watched?

1 watched?

2 A I don't know. I don't know.

3 Q Look to you like you were taking a picture  
4 with your phone?

5 A Maybe.

6 Q What else do you think you might have been  
7 doing, having watched that clip?

8 A Holding my phone.

9 Q Well, you held it out outstretching your right  
10 arm, right?

11 A Right.

12 Q And then it looked like you pressed a button  
13 on the phone like one does when taking a picture, right?

14 A Possible.

15 MR. OLIVER: Okay. Well, we've already  
16 called for production of all the photos related to this  
17 date and all communications including texts and calls  
18 related to this date. So I don't think I need to renew  
19 that call again. We already did that at the last  
20 deposition. We are going to move on. We're going to  
21 look at what we're going to mark as Exhibit 25.

22 (Exhibit 25 marked for identification.)

23 MR. OLIVER: The Bates 19 number is  
24 WHITE\_000119. This is body-worn camera footage from  
25 Officer Ali, A-L-I, and we're going to look first at

1 1:00 through 1:20.

2 MR. HIRAOKA: Is that one minute or one  
3 second, Gideon?

4 MR. OLIVER: One minute. Thank you, Joe.

5 One minute through 1:20, a 20-second clip.

6 (Video Playback.)

7 BY MR. OLIVER:

8 Q Okay. So in the clip we just watched, did you  
9 see yourself with your phone in your hand?

10 A Yes.

11 Q What were you doing with your phone in the  
12 clip?

13 A Not sure.

14 Q Did it look to you like you were talking on  
15 the phone with someone?

16 A Not sure.

17 MR. OLIVER: Let's watch the clip again.

18 One minute through 1:20.

19 (Video Playback.)

20 BY MR. OLIVER:

21 Q Okay. We watched the clip again. Could you  
22 tell if you were talking to someone on your phone in  
23 that clip?

24 A Possible. Listening to a voice note, seems  
25 like.

1 Q Oh, Okay. And have you searched -- and what  
2 voice note do you think you might possibly have been  
3 listening to?

4 A Not sure. Maybe work.

5 Q Maybe a what?

6 A Work. Work related.

7 Q I see. Okay. And when you say, "Voice note,"  
8 do you mean like a voicemail or a recorded note on the  
9 phone or something else?

10 A Like, a WhatsApp voice note.

11 Q WhatsApp. Okay. On November 11, 2022 were  
12 you using WhatsApp to communicate about client safety  
13 work?

14 A Always.

15 Q Okay. All right. So did you hear yourself in  
16 the clip that we just watched say, How are you, Boss?

17 A Yes.

18 Q Who are you speaking to?

19 A Not sure.

20 Q Why were you calling the person you were  
21 calling boss, "Boss"?

22 A Not sure.

23 Q When you use the term "Boss," how far away  
24 were you from the person you were calling boss?

25 A I don't know.

1 Q And that's the van that we saw in the first  
2 video clip that we watched, right?

3 A Yes. They were -- they -- they were not even  
4 from the area, they said. And I said, Please stay here  
5 till the other police comes.

6 Q Okay. Thank you for telling -- well, go  
7 ahead.

8 A And the other -- and the other police came,  
9 and I told the police, This guy is harassing me,  
10 breaking my car and I -- I want to get rid of him. This  
11 is my work. I work over here. I don't want this person  
12 to follow me and harass me and break my car.

13 Q Okay. We are going to -- well, withdrawn.

14 On November 11, 2022, aside from what you  
15 claim happened to you on August 5th, did you -- and the  
16 statement that you claim that Mr. White made, did you  
17 have any other reason to believe that Mr. White, as you  
18 say, went around and broke other people's property?

19 A There was another gentleman who works down the  
20 block and he told me that somebody has been breaking his  
21 car.

22 Q What's that gentleman's name?

23 A I don't know. He has a shop. I don't know if  
24 he still has a shop, but he had a shop down the block.

25 Q What was the address of the shop?

1           A     I don't know. It's one block before. It's  
2     not on the same block. It's one block before. He  
3     drives a black Range Rover.

4           Q     And --

5           A     He said -- he said, This guy --

6           Q     What do they sell at the shop?

7           A     I don't know.

8           Q     And did you tell the police that this other  
9     person had claimed that someone else was -- that someone  
10    had been damaging their car?

11          A     I don't think so.

12          Q     Did you tell the prosecutor that when you  
13    spoke to the prosecutor?

14          A     I don't remember.

15                MR. OLIVER: I'm going to call for the  
16     identification of the -- this other person, the shop.

17   BY MR. OLIVER:

18          Q     And when was the conversation that you had  
19    with the person you referred to as, this other  
20   gentleman?

21          A     I don't remember.

22          Q     Was it after August 5, 2022?

23          A     I don't remember.

24          Q     Was it before November 11, 2022?

25          A     I don't remember, but somewhere around there.

1 MR. OLIVER: Okay. I'm also going to  
2 call for production of the body-worn camera footage from  
3 Officer Gonzalez which appears to -- Officer Gonzalez  
4 appears to have had a -- at least a one-minute  
5 conversation with Mr. Klein where no other NYPD members  
6 were -- whose footage that has been disclosed yet were  
7 nearby. So I'm again calling for the production of that  
8 long overdue footage. Now we can play one -- yeah.

9 MR. HIRAKO: Taken under advisement.

10 Thank you.

11 MR. OLIVER: Well, 1:54 to 2:12 is what  
12 we're going to play next.

## 13 (Video Playback.)

14 BY MR. OLIVER:

15 Q Okay. In that clip, did you hear Officer --  
16 did you hear yourself tell Officer Ali that you did  
17 volunteer work with the 101 Precinct?

18 A Yes.

19 Q And did you hear yourself tell Officer Ali  
20 that you did volunteer work with the Fourth Precinct?

21 A Yes.

22 Q And did you hear yourself tell Officer Ali  
23 that you did volunteer work with Nassau County?

24 A Fourth Precinct.

Q And did you also hear yourself tell him that

1 (Exhibit 29 marked for identification.)

2 BY MR. OLIVER:

3 Q And I'm going to ask you the same question,  
4 please take a look and let me know if you've seen it  
5 before.

6 A I don't think so.

7 Q Okay. All right. We can take it down. Did  
8 you tell prosecutors from the Kings County DA's Office  
9 that Mr. White damaged your rear license plate border on  
10 August 5th, 2022?

11 A I don't remember.

12 Q Did you see Mr. White damage your rear license  
13 plate border on August 5th, 2022?

14 A Not sure.

15 Q Did you tell prosecutors that Mr. -- that your  
16 friends and family had been sending you links of Mr.  
17 White bragging about him damaging your plate?

18 A I don't remember.

19 Q Did you tell prosecutors that Mr. White had  
20 been posting pictures of your vehicle on social media?

21 A I don't remember.

22 Q Did you tell prosecutors that posting -- that  
23 you're -- that -- sorry. Withdrawn.

24 Did you tell prosecutors that Mr. White's  
25 posting became more frequent after your arrest on

1       November -- sorry. After his arrest on November 11th?

2           A      Possible.

3           Q      Did you tell the prosecutor that you had  
4        pictures of those posts on your phone?

5           A      Not sure.

6           Q      Did you ever have pictures of posts from Mr.  
7        White saved on your phone?

8           A      Not sure.

9           Q      Did the ADA who you spoke with tell you to  
10     preserve those screenshots?

11          A      I don't remember.

12          Q      Did you tell prosecutors that the November  
13     11th, '22 -- sorry. The November 11, 2022 incident was  
14     in the newspaper?

15          A      I don't remember.

16          Q      Did you tell prosecutors that you didn't  
17     remember which newspaper, but you would obtain the  
18     information from a family member?

19          A      I don't know.

20          Q      Did you tell prosecutors that you saw Mr.  
21     White break the border of your license plate cover with  
22     a plier and scratch your bumper on August 5th, 2022?

23          A      Yes.

24          Q      Did you in fact see Mr. White break the border  
25     of your license plate cover with a plier on August 5th,

1 2022?

2 A Not sure.

3 Q But now you're saying that you remember -- you  
4 remember telling prosecutors that you saw him break the  
5 border of your plate on -- of your plate cover on August  
6 5th, 2022?

7 A Not sure.

8 Q Okay. Did you tell prosecutors -- turning to  
9 November 11, 2022, did you tell prosecutors that the  
10 plate border had not been covering the license plate  
11 before you saw Mr. White on November 11, 2022?

12 A I don't remember.

13 Q Okay. Is there anything that you can think of  
14 that would help you remember what you said to  
15 prosecutors?

16 A I know the basic, what I told them.

17 Q I'm asking though if there is anything --  
18 you've testified about what you told them. Is there  
19 anything about what you told them that you haven't yet  
20 testified about either in the prior deposition or today?

21 A That I want an order protection.

22 Q Yes. You testified about that in the prior  
23 deposition. All right. On August 5th, 2022, had anyone  
24 else driven the SUV that day aside from you before you  
25 saw Mr. White?

1 A I don't know. Possible. I don't know.

2 Q Who could have driven the SUV that day?

3 A I don't know.

4 Q Could your brother have driven it?

5 A I don't remember.

6 Q Okay. On August 5th, 2022, did your brother  
7 break a piece of the license plate cover that was on  
8 your SUV off?

9 A I don't know.

10 Q On August 5th, 2022, did your brother wedge or  
11 jam a broken piece of the license cover into the license  
12 cover?

13 A I don't know.

14 Q Who else had access to the vehicle in the five  
15 hours before you first saw Mr. White on August 5th,  
16 2022?

17 A I don't know.

18 Q Is there anyone else who had access to the  
19 vehicle in the five hours before you first saw Mr. White  
20 on November 11th, 2022?

21 A I don't remember.

22 Q On November 11th, 2022, had anyone else driven  
23 the SUV that day?

24 A I don't remember.

25 Q On November 11th, 2022, did your brother break

1 a piece of the license cover off?

2 A I don't know.

3 Q On November 11th, 2022, did your brother wedge  
4 or jam a piece of the border into the cover?

5 A I don't know.

6 MR. OLIVER: Okay. I've just got a  
7 couple of other questions. We're going to show what was  
8 previously marked as Exhibit number 3 at the prior  
9 deposition which is WHITE\_000637. I have probably two  
10 questions about this and two questions about one other  
11 exhibit.

12 Ms. Yu, could you please zoom in? Can we do a  
13 little even? Okay. That's good. Okay. So we've  
14 zoomed in here. Do you see on the bottom where it says  
15 A&Z-I-N-S & DMV Services?

16 A Yes.

17 MR. OLIVER: Okay. Now I'm going to show  
18 you what was previously marked as Exhibit 2 that's  
19 WHITE\_000638. And we're going to zoom in, please.  
20 Okay. Now we're zoomed in.

21 BY MR. OLIVER:

22 Mr. Klein, is the license border that's  
23 depicted in this picture different than the one that was  
24 depicted in the exhibit we just looked at, Exhibit 3?

25 A Looks like it.

1 Q And you see on the bottom, what does it say?

2 What's the word it says on the bottom there?

3 A Not sure.

4 Q You see it says, Advanced, A-D-V-A-N-C-E-D?

5 A Yes.

6 Q Okay. And you see there the phone number 845-  
7 363 on the broken piece?

8 A Yes.

9 MR. OLIVER: Okay. Just one more. We're  
10 going to mark as Exhibit 30. It's WHITE\_000674.

11 (Exhibit 30 marked for identification.)

12 BY MR. OLIVER:

13 Q And while we're getting that up, Mr. Klein,  
14 you agree that the license plate border that we looked  
15 in that -- in the first picture is a different license  
16 plate cover than we looked at in the second, right?

17 A Looks -- looks different.

18 Q Okay. Do you know why that is?

19 A Not sure.

20 Q Okay. Now, we're looking at what's Exhibit  
21 30, WHITE\_000674. Is this the broken piece that you  
22 gave to the police?

23 A I don't know.

24 Q Okay. Assuming -- well, withdrawn.

25 You agree it looks like the border cover that

1 you had on November 22nd (sic) was different than the  
2 one that you had on August 5th?

3 MR. OLIVER: Just one second, Joe.

4 MR. HIRAOKA: But I think you said  
5 November 22nd. Did you mean November 11th?

6 MR. OLIVER: I did. Thank you very much.  
7 I appreciate it.

8 BY MR. OLIVER:

9 Q You agreed with me, I'll say -- I'll just  
10 rephrase it and I've got two or three questions and  
11 we're done. I'm going to ask to hold it open, but.

12 You agree with me that the picture of the  
13 license plate cover that we looked at from November 11th  
14 shows a different license cover than the picture from  
15 August 5th, correct?

16 A Looks like it. I'm not sure.

17 Q Well, it was your car. Do you know why that  
18 is?

19 MR. OLIVER: You can take the picture  
20 down, Ms. Yu.

21 BY MR. OLIVER:

22 Q Do you know why that is, Mr. Klein?

23 A No.

24 Q Okay. And just to be clear, you -- is what  
25 you're claiming here that Mr. White damaged the license